


CLERK'S OFFICE U.S. DISTRICT COURT
AT CHARLOTTESVILLE, VA
FILED

**UNITED STATES DISTRICT COURT
for the
Western District of Virginia**

AUG 21 2023
LAURIE A. AUSTIN, CLERK
BY:  DEPUTY CLERK

Ebony Cosby, Beneficiary of the Ebony Robin Cosby Living Trust
Plaintiff

V.

Charlottesville Utilities
Defendant

Civil Action No. 3:23cv00044

COMPLAINT DECLARATORY RELIEF

NATURE OF THE ACTION

1. This is a civil action seeking declaratory relief and redress for violations of commercial rights under the Uniform Commercial Code (UCC), unjust enrichment. Tortious, interference with contractual relations. and infringements upon constitutional rights protected by the Fourth and Fifth Amendments to the United States Constitution

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under federal question jurisdiction, as this action involve interpretation and application of the UCC and the U.S. Constitution
3. Venue is proper in this Court because the Defendant. Charlottesville Utilities conducts business within the district.

PARTIES

4. The Plaintiff. Ebony Cosby. is the beneficiary of the Ebony Robin Cosby Living Trust
5. The Defendant. Charlottesville Utilities. is a corporation conducting business in the state of Virginia

FACTUAL ALLEGATIONS

6. On June 14th, 2023, the Plaintiff tendered to Charlottesville Utilities Account #1083678 a negotiable instrument (valued at \$521.60)- a financial asset of the Trust- and an associated coupon to my knowledge as defined in Black's Law Dictionary 6th Edition:
 - a. Coupon notes- Promissory notes with coupons attached. the coupons being notes for interest written at the bottom of the principal note, designed to be sequentially presented for payment as they mature. As held in *Thompson v. Perrine*, 106 U.S. 589, 1 S.Ct. 564, 27 L.Ea. 298, coupon are negotiable and a distinct cause or action arises for each matured coupon on a negotiable bond.
7. The Defendant refused to accept the negotiable instrument and coupon on June 14th. 2023, violating the Plaintiff's commercial rights under UCC 3-603(b), which confirms that the "tender of payment... discharges the obligation to that extent."
8. The defendant failed to clearly define or provide instructions about the coupon note, constituting a material breach and non-disclosure of essential terms.
9. Despite the plaintiffs valid tender the Defendant persists in collection attempts retaining and profiting from the Plaintiff's property without just compensation. a violation of the Fifth Amendment's Takings Clause as established in *Kelo v. City of New London*, 545 U.S. 469 (2005).
10. To date. the Defendant has not provided the Plaintiff with adequate proof of possession of the original note nor established their right to enforce it, as mandated under UCC-301

REQUEST FOR DECLARATORY RELIEF

11. The Plaintiff seeks a declaratory judgment defining the rights and responsibilities of the involved parties regarding the negotiable instrument and coupon, declaring that the instrument was valid and should have been accepted by the defendant.
12. The Court's declaration will confirm that the Defendant's refusal to accept the negotiable instrument and coupon constituted violations of the Plaintiff's commercial rights and constitutional protections.

FIRST CLAIM FOR RELIEF
Violation of Commercial Rights

13. The Plaintiff repeats and realleges each and every factual allegation as if fully set forth herein.
14. The Defendant's refusal to acknowledge the Plaintiff's negotiable instrument deprived the Plaintiff of commercial rights, as evident in *Anderson v. United Finance Co.*, 666 P.2d 1274 (Or. Ct. App. 1983)

SECOND CLAIM FOR RELIEF
Tortious interference with contractual relations

15. The Plaintiff repeats and realleges each and every factual allegation as if fully set forth herein.
16. The Defendant's denial of the Plaintiff's valid instrument represents a willful interference with Plaintiffs contractual relations causing harm and financial loss.

THIRD CLAIM FOR RELIEF
Unjust Fifth Amendment violations

17. The Plaintiff repeats and realleges each and every factual allegation as if fully set forth herein.
18. The Defendant's actions resulted in unjust enrichment at the expense of the Plaintiff, a breach of equitable principles Furthermore by not providing just compensation for the denial of the Plaintiffs property rights, the Defendant violated the Fifth Amendment

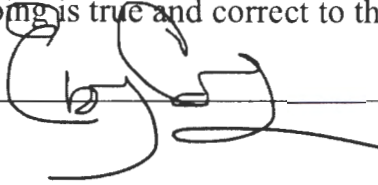
PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests

- a. An order compelling the Defendant to provide proof of the original note with a wet ink signature
- b. A declaratory judgment stating the debt is discharged absent such proof.
- c. Compensatory damages in the amount of \$130,000.00 for violations of the Plaintiff's rights, unjust enrichment, and emotional distress caused by the Defendant's actions

- d. An order compelling the Defendant to produce and present the original note, establishing their right to enforce it pursuant to UCC 3-301. and providing the Plaintiff with adequate assurance of the same
- e. Any other relief the courts deems appropriate. including costs and attorney fees.

I declare under penalty and perjury under the laws of United States of America that the foregoing is true and correct to the best of my knowledge. 28 usc 1746

A handwritten signature in black ink, appearing to be 'S. S.', written over a horizontal line.

8/16/23